UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TENNESSEE EASTERN DIVISION

| TERRY LEE WARE, |) |
|------------------------|-----------------------|
| Plaintiff, |) |
| VS. |) No. 19-1120-JDT-cgc |
| JOHN MEHR, Defendant. |))) |
| | |

ORDER DISMISSING CASE, CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH AND NOTIFYING PLAINTIFF OF APPELLATE FILING FEE

On October 22, 2019, the Court issued an order dismissing Plaintiff Terry Lee Ware's *pro se* complaint and granting leave to file an amended complaint. (ECF No. 6.) Ware was warned that if he failed to file an amended complaint within twenty-one days, the Court would assess a strike pursuant to 28 U.S.C. § 1915(g) and enter judgment. (*Id.* at PageID 24-25.)

Ware has not filed an amended complaint, and the time within which to do so has expired. Therefore, this case is DISMISSED in its entirety, and judgment will be entered in accordance with the October 22, 2019, order dismissing the original complaint for failure to state a claim. Ware is assessed his first strike under § 1915(g). This strike shall take effect when judgment is entered. *See Coleman v. Tollefson*, 135 S. Ct. 1759, 1763-64 (2015).

It is CERTIFIED, pursuant to 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate

Procedure 24(a), that any appeal in this matter by Ware would not be taken in good faith.

The Court must also address the assessment of the \$505 appellate filing fee if Ware

nevertheless appeals the dismissal of this case. A certification that an appeal is not taken

in good faith does not affect an indigent prisoner plaintiff's ability to take advantage of the

installment procedures in the Prison Litigation Reform Act (PLRA), 28 U.S.C.

§§ 1915(a)-(b). See McGore v. Wrigglesworth, 114 F.3d 601, 610-11 (6th Cir. 1997),

partially overruled on other grounds by LaFountain v. Harry, 716 F.3d 944, 951 (6th Cir.

2013). McGore sets out specific procedures for implementing the PLRA. Therefore, Ware

is instructed that if he wishes to take advantage of the installment method for paying the

appellate filing fee, he must comply with the PLRA and McGore by filing an updated in

forma pauperis affidavit and a current, certified copy of his inmate trust account statement

for the last six months.

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ James D. Todd

JAMES D. TODD

UNITED STATES DISTRICT JUDGE

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